



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,184	11/12/2003	Dennis J. Sammut	SAMMUT-07597	6125

7590 05/04/2006  
David A. Casimir  
MEDLEN & CARROLL, LLP  
Suite 350  
101 Howard Street  
San Francisco, CA 94105

EXAMINER

CLEMENT, MICHELLE RENEE

ART UNIT PAPER NUMBER

3641

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



### DETAILED ACTION

1. Claims 48, 49, 55-72, and 81-83 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/21/05 and 2/17/06.

#### *Specification*

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

#### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 45-47, 50-54, and 73-80 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 45 recites the limitation "said primary vertical cross-hair" in line 9. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 74 recites the limitation "said primary horizontal cross-hair". There is insufficient antecedent basis for this limitation in the claim.

7. Claim 77 recites the limitation "the opposite end". There is insufficient antecedent basis for this limitation in the claim.

8. The term "the opposite end" in claim 77 is a relative term which renders the claim indefinite. The term "the opposite end" is a spatially relative term that is not defined by the

claim, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 45, 46, 50, 51, 53, 73, and 75-80 are rejected under 35 U.S.C. 102(b) as being anticipated by Reed (US Patent # 4,695,161). Reed discloses a ballistics calculator system for computing targeting information to hit a target, comprising a processor, the processor comprising a ballistics computer program for analyzing information to accurately aim a firearm at a target using a target acquisition device with a reticle, the program using information regarding the target acquisition device and reticle being used, wherein the type of target acquisition device and reticle comprise, a reticle comprising a plurality of secondary horizontal cross-hairs at predetermined distances along a primary vertical cross-hair and a plurality of secondary vertical cross-hairs at predetermined distances along at least some of the secondary horizontal cross-hairs and an output using the secondary horizontal cross-hairs and secondary vertical cross-hairs to identify an aiming point for hitting the target. The reticle comprises a primary vertical and horizontal cross-hair. At least some of the secondary horizontal and vertical cross-hairs are evenly spaced and are connected to form a grid. Information regarding the target acquisition device and reticle being used can include the positional relationship between the target acquisition device and the firearm. The device further comprises a housing, means for mounting

the housing in a fixed predetermined position relative to a firearm. The target acquisition device further comprises an objective lens mounted in one end of the housing and an ocular lens mounted in an opposite end. The target acquisition device further comprises a projected image and is configured to display information on a display screen, wherein the information displayed is an image of a reticle.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 47, 52 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed as applied to claims 45 and 46 above, and further in view of Wascher et al. (US Patent # 5,491,546). Although Reed does not expressly disclose the primary vertical and horizontal cross-hairs intersecting at the optical center of the reticle, at least some of the secondary horizontal and vertical cross-hairs having identifying marks, and the reticle including range finding markings on the reticle, Wascher et al. does. Wascher et al. teaches a target acquisition device and reticle, wherein the reticle comprises primary vertical and horizontal cross-hairs that intersect at an optical center of the reticle and wherein at least some of the secondary horizontal and vertical cross-hairs have identifying marks, the reticle further including range finding marks on the reticle. Wascher et al. and Reed are analogous art because they are from the same field of endeavor: target acquisition devices. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the position of the reticle and identifying

marks as taught by Wascher et al. with the device as taught by Reed. The suggestion/motivation for doing so would have been to obtain a sighting system that included the range determining features for more accurate aiming as suggested by Wascher et al.

13. Claim 74 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reed as applied to claim 45 above, and further in view of Cohen (US Patent # 5,375,072). Although Reed does not expressly disclose that the device comprises an elevation knob and the system providing an output of how much the knob should be turned to adjust a position of the target acquisition device relative to the firearm, Cohen does. Cohen teaches the processor and the target acquisition device being separate units wherein the processor provides an output informing the user how much a windage knob must be turned to adjust a position of the target acquisition device so that an intersection of the primary vertical cross-section and the primary horizontal cross-hair can be used as the aiming point. Cohen and Reed are analogous art because they are from the same field of endeavor: target acquisition devices. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the separation of components as taught by Cohen with the device as taught by Reed, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art and Cohen specifically teaches the components separately.

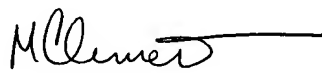
### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Binion (US Patent # 4,561,204), Critchett (US Patent # 1,190,121), Edwards (US Patent # 6,813,025), Barrett (US Patent # 6,862,832), and Bell et al. (US Patent # 6,886,287).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
MICHELLE CLEMENT  
PRIMARY EXAMINER